



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Employment Security Department

☒ Preproposal Statement of Inquiry was filed as WSR 09-15-013 ; or
☐ Expedited Rule Making-Proposed notice was filed as WSR _____ ; or
☐ Proposal is exempt under RCW 34.05.310(4).

☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Chapter 192 WAC. This filing reflects a general update of rules related to eligibility for unemployment insurance benefits. Topics include definition of terms, processing benefit claims, notices to employers, reporting requirements, job separations, availability for work, job search requirements, deductions from benefits, training, and educational employment.

Hearing location(s):

Commissioner's Conference Room, 2nd Floor
Employment Security Department
212 Maple Park Drive
Olympia, Washington

Submit written comments to:

Name: Pamela Ames
Address: PO Box 9046
Olympia WA 98507-9046
e-mail: pames@esd.wa.gov
fax: (360) 902-9799 by (date) April 21, 2010

Date: April 22, 2010 Time: 1:30 p.m.

Assistance for persons with disabilities: Contact
Tammy Crawford by April 20, 2010
TTY (360) 902-9569 or (360) 902-9577

Date of intended adoption: April 29, 2010
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rules primarily convert existing policy to rule, update and readopt rules in chapters with appropriate subject matter headings, and delete obsolete references. Amended rules are: WAC 192-110-050 updates the process for reopening a claim; WAC 192-130-065 provides that employer notices will be mailed to the address provided by the employer rather than the claimant; WAC 192-130-070 deletes obsolete dates; WAC 192-140-005 updates procedures for filing weekly benefit claims; WAC 192-140-010 updates provisions related to the security of a claimant's personal identification number; WAC 192-140-100 updates procedures for claimant's failure to respond to a request for information regarding a discharge from work; WAC 192-150-150 is revised for clarity; WAC 192-180-010 provides that posting an online resume does not qualify as an employer contact for purposes of meeting the job search requirements; WAC 192-180-013 is revised to state that employees who have their hours reduced by more than 60% must make an active search for work; WAC 192-180-015 instructs claimants on tracking job search activities where there is no direct employer contact (such as online); WAC 192-180-025 is revised for clarity; WAC 192-200-005 is revised to eliminate duplicative language; WAC 192-200-030 is revised to provide that the definition of full-time training is subject to the department's discretion; and WACs 192-230-020 and 192-250-045 contain technical changes only. Chapters 192-16, 192-17, and 192-23 are repealed. WACs 192-12-142, 151, 153, 154, 155, 160, 170, 173, and 365 are also repealed. Significant new rules are: WAC 192-110-150, providing that an individual with power of attorney may not apply, certify or testify in lieu of the claimant on matters related to eligibility for unemployment benefits; WAC 192-170-080 updates the policy related to leaves of absence for UI claimants; WAC 192-170-090 specifies how eligibility for benefits will be determined for incarcerated claimants; and WACs 192-210-001 and 045 relate to eligibility for benefits of educational employees.

Statutory authority for adoption: RCW 50.12.010, 50.12.040 and 50.20.010

Statute being implemented: Title 50 RCW

Is rule necessary because of a:

Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

DATE

2-23-10

NAME (type or print)

Karen Fitee

SIGNATURE

[Signature]

TITLE

Commissioner

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAR 1 2010

TIME

11:18

WSR

10-06-084

AM
PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization) Employment Security Department

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Juanita Myers	212 Maple Park, Olympia	(360) 902-9665
Implementation.....Nan Thomas	212 Maple Park, Olympia	(360) 902-9303
Enforcement..... Nan Thomas	212 Maple Park, Olympia	(360) 902-9303

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

Analysis indicates the proposed rules will not impose more than minor costs on businesses, nor will there be a disproportionate impact on small business.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Juanita Myers

Address: Employment Security Department

PO Box 9046

Olympia, WA 98507-9046

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e-mail jmyers@esd.wa.gov

☐ No: Please explain:

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07,
effective 12/2/07)

WAC 192-110-050 How do I reopen my claim? (1) If you do not file a claim for one or more weeks, you must reopen your claim.

(a) If it has been fewer than four weeks since you last claimed, you must reopen your claim by calling the unemployment claims telecenter and asking an agent to reopen your claim.

(b) If you have not claimed benefits for four or more weeks, you may reopen your claim on the internet or by calling the unemployment claims telecenter. However, you must do so **before** the last working day of the week (which is usually Friday). Otherwise you must call the unemployment claims telecenter and speak to an agent to reopen your claim.

(2) Your claim will be reopened effective on Sunday of the week in which you contact the department except that the effective date for any prior week claimed under WAC 192-140-005(4) will be Sunday of that week. (~~You cannot receive benefits for any prior weeks unless you can show good cause for not reopening your claim earlier.~~)

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-130-060 Notice to employer. (1) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to:

- (a) The claimant's last employer, and
- (b) Any prior employer ~~((from whom the claimant has a potentially disqualifying separation where there is insufficient subsequent employment to purge a separation disqualification. An individual will be presumed to have a potentially disqualifying separation when:~~

~~(i) For claims with an effective date prior to January 4, 2004, it has been less than seven weeks or the individual has not earned at least seven times his or her weekly benefit amount since the job separation, or~~

~~(ii) For claims with an effective date January 4, 2004, and later,) where it has been less than ten weeks since the job separation or the individual has not earned at least ten times his or her weekly benefit amount since the job separation.~~

(2) Whenever an individual files an initial application for unemployment benefits and a benefit year is established, the department will mail a notice ~~((will be mailed))~~ to all base year employers. This notice to base year employers will include information on wages reported and benefit charging related information and will request an employer response if the wage information is incorrect or if the employer wishes to request relief of benefit charging.

(3) Whenever an individual files an initial application for unemployment benefits, the department will mail a notice ~~((will be mailed))~~ to any separating employer as provided in WAC 192-320-075. This notice will include information that the employer may be liable for all benefits paid on the claim as provided in RCW 50.29.021 (2)(c).

(4) Whenever an individual files an additional claim for benefits (reopens an existing claim after subsequent employment), the department will mail a notice ~~((will be mailed))~~ to the last employer reported by the claimant and to any prior employer from who the claimant has a potentially disqualifying separation who has not previously been notified.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-130-065 Mailing addresses for notice to employer.
The department will mail notices to employers required by RCW 50.20.150 and WAC 192-130-060 (~~((will be mailed))~~) as follows:

(1) The department will mail the notice to the last employer of the claimant (~~((will be mailed to the address provided by the claimant. However, an alternative mailing address may be used in the following circumstances))~~) as follows:

(a) If the employer has notified the department (~~((has been notified))~~) that the employer is represented for unemployment insurance purposes by an employer representative or cost control firm, the department will mail the notice to the last employer (~~((may be mailed))~~) directly to that firm; or

(b) If an employer has (~~((notified))~~) provided the department (~~((that unemployment claim notices should be mailed to a specified))~~) with a mailing address, the department will mail the notice to the last employer (~~((may be mailed))~~) directly to that address; or

(c) If the employer has not provided the department with a mailing address, the department will mail the notice to the last employer to the address provided by the claimant.

(2) The department will mail the notice to any base year employer who has reported wages to the department (~~((will be mailed))~~) to the employer's mailing address of record provided by the employer for tax purposes.

(3) The notice to any other employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed to the address provided by the claimant.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-130-070 Mailing of eligibility determinations--RCW 50.20.180. (1) The department will mail an eligibility (~~((determination))~~) decision based on a job separation issue (~~((will be mailed))~~) to the following:

(a) The last employer, if the claimant was separated from employment for reasons other than lack of work;

(b) A previous employer from whom the claimant has a potentially disqualifying separation as provided in WAC 192-130-060 if the claimant was separated from employment for reasons other than lack of work;

(c) (~~((For claims with an effective date prior to January 4, 2004, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for a felony or gross misdemeanor connected with the work,~~

~~(d) For claims with an effective date of January 4, 2004 or later,))~~ To any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for gross misconduct connected with the work, or whose wage credits are deleted from the claimant's record as a result of the claimant's gross misconduct.

(2) The department will mail an eligibility ((determination)) decision based on an issue other than a separation from employment ((will be mailed)) to an employer if the employer provides relevant information ((relating to)) about the claimant's eligibility for a specific week.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-140-005 Filing weekly claims for benefits. (1) **How do I file my weekly claim for benefits?** You may file your claim by ~~((placing a telephone call to))~~ calling the department's unemployment information and weekly claims line, using the department's internet web site, or filing a paper claim. ~~((The department can approve other methods of filing a weekly claim in individual circumstances.))~~

(2) **When do I file my claim?** You must file a claim for every week for which you want to be paid or have counted as your waiting week. Every week begins at 12:01 a.m. on Sunday and ends at midnight on Saturday. You must file your claim ~~((must be filed))~~ after the end of the week(s) you are claiming.

(a) File your telephone or internet claim after 12:01 a.m. Sunday, but before 5:00 p.m. on Friday, following the week you are claiming. (In case of a legal holiday, file your claim before 5:00 p.m. on the last working day of the week.)

(b) If you file by ~~((mail))~~ paper, file your claim anytime Sunday through Saturday following the week you are claiming. If you file by mail, your claim is considered filed on the postmarked date. If you file by fax, your claim is considered filed on the date of receipt.

(3) **How often do I file my claim?** File your claim weekly. The department may approve other filing schedules in cases of emergency or in unusual circumstances.

(4) **What happens if I miss a week?** If you do not claim a week, you ~~((will have to contact the unemployment claims telecenter to))~~ must reopen your claim. See WAC 192-110-050.

(a) If you have not yet received your first payment, you may claim benefits for one week prior to the week in which you contact the telecenter to reopen your claim.

(b) If you have received your first payment and not more than four consecutive weeks have elapsed since you last filed a claim, you may claim benefits for any of the four weeks prior to the week in which you contacted the telecenter to reopen your claim.

(c) Except as described in (a) and (b) of this subsection, we will consider unclaimed weeks late. The department will not pay you for these weeks unless you show good cause for not contacting the telecenter earlier to reopen your claim.

(5) **What information do I have to report?** Your claim must include:

- (a) The Saturday date of the week you are claiming;
- (b) Answers to the questions:
 - (i) The telecenter cannot process a claim filed by telephone ~~((cannot be processed))~~ or internet unless all questions are

answered;

(ii) The department will process a claim filed in writing ~~((will be processed))~~ if at least one question is answered and other information required by this subsection (5) is provided, but your eligibility for benefits will be in question and you will be asked to provide complete information, which could result in a denial of benefits;

(c) Your personal identification number if filing by telephone or internet, or your signature if you filed your claim in writing;

(d) The amount and source of any pension you are receiving for the week claimed;

(e) Any holiday earnings received during the week claimed;

(f) Any vacation pay received during the week claimed, including the dates for which payment was received, if applicable; and

(g) Any earnings and the number of hours you worked during the week claimed.

(6) What happens if I don't provide this information? The department cannot process a telephone or internet claim that does not meet the requirements of subsection (5) ~~((cannot be processed))~~ of this section and you will receive ~~((verbal))~~ instructions to contact ~~((your))~~ the unemployment claims telecenter. A written claim that does not meet these requirements is incomplete and the department will ~~((be returned))~~ return it to you with a request for additional information.

~~((7) What happens if I file my claim late?~~

~~(a) Until you receive your first payment, your claim is late if it is filed more than seven days (one week) after the Saturday of the week being claimed. You will not be paid for these weeks unless you can prove you had a good reason for filing late.~~

~~(b) After you have received your first payment, your claim is late if it is filed more than 28 days (four weeks) after the Saturday of the week being claimed. Any week that is filed late may be conditionally paid. This means you will be paid benefits, but you will be asked to prove you had a good reason for filing late. If you cannot do so, you will receive a notice directing you to repay benefits for the week(s) you filed late.))~~

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

WAC 192-140-010 Personal identification number. (1) The first time you call the unemployment information and weekly claims line to obtain information about your claim or to file a weekly claim for benefits, you must ~~((establish))~~ set up a personal identification number (PIN). This number is your electronic signature on all claims filed by telephone and its use is equivalent to your signature on written forms.

(2) Security of the PIN is your responsibility. You are responsible for any payments made as a result of the use of this PIN unless you provide evidence showing that the individual using your PIN was not authorized to do so. Your PIN must be reset if you forget ((your PIN)) it or if someone else, including an employee of the department, learns your PIN((, it must be reset)). You are responsible for either contacting the unemployment claims telecenter to ((establish)) set up a new PIN or setting up a new PIN using the department's internet site.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-140-100 What happens if I do not respond to a request for information about a discharge from work? (1) If you do not respond to a request for information about a discharge from work and if you:

((a)) Have not given the department enough information to identify or contact the employer, the department will presume the employer discharged you for misconduct connected with ((the)) your work. The department will deny benefits ((will be denied)) under RCW 50.20.066.

((if you)) ((b)) Have given the department enough information to contact the employer, the department will not deny benefits ((will not be denied)) unless ((the employer shows by)) a preponderance of evidence shows that you were discharged for misconduct connected with your work or the separation was for another disqualifying reason.

((2)) ((This)) If benefits are denied due to misconduct, the denial is for an indefinite period of time and will continue ((until you meet the requalification provisions of RCW 50.20.066)) for ten weeks and until you earn ten times your weekly benefit amount in employment that is covered by Title 50 RCW.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-150-150 When is a separation considered a refusal of new work? (1) Section 3304 (a) (5) of the Federal Unemployment Tax Act and RCW 50.20.110 state that you cannot be denied benefits if you refuse to accept new work when the wages, hours, or other working conditions are substantially less favorable than those prevailing for similar work in your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When ~~((your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will decide if the change is an offer of new work. If it is, the department will also decide if the new work is substantially less favorable than similar work in your local labor market))~~ you resign rather than accept conditions of employment that are different from those under which you had been working, the department will decide whether you left work voluntarily or refused an offer of new work.

(a) If the changes in working conditions are not substantial, the department will consider you to have voluntarily quit work.

(b) If ((the department decides the)) there is a substantial change in working conditions so as to constitute((s)) an offer of new work and the change is not authorized or implied by the original employment agreement, ((and the new work is substantially less favorable,)) the department will treat the separation as a layoff due to lack of work and adjudicate ((the issue of)) the refusal of new work under RCW 50.20.080.

(i) ~~((The department will adjudicate the refusal of new work even if you have not claimed benefits for the week in which you refused the new work, and~~

~~((ii) The employer offering the new work is an interested party to the work refusal decision.~~

(b) ~~If the department decides the change is not an offer of new work, or the new work is not substantially less favorable, it will adjudicate the separation from work as a voluntary quit under RCW 50.20.050(2) or a discharge under RCW 50.04.294, as appropriate.~~

~~((+)) If the ((employer reduces)) change in working conditions is a reduction in your pay or hours ((by)) of ten percent or less, the department will presume ((that it is not substantially less favorable and adjudicate the separation under RCW 50.20.050(2) or~~

~~a discharge under RCW 50.04.294, as appropriate))~~ the change is not substantial. You can overcome this presumption by providing additional information to the department ~~((that shows))~~ showing the job was not suitable ((as provided in)) under RCW 50.20.110.

~~((+5+)) (ii) If you continue working ((for your employer)) after ((being notified of the change(s) in)) your working conditions have changed, ((the department will consider that you have agreed to the new terms and conditions of employment and have accepted the offer of new work. If you)) but later quit work because of these changes, the department will ((consider that)) presume you ((have)) voluntarily left work for personal reasons. This ((provision)) does not apply when:~~

~~(A) You give notice of your intent to quit ((work upon being notified of the change(s) in working conditions and simply)) but continue to work during an agreed upon notice period((. In addition,)); or~~

~~(B) You ((may)) continue working during an employer-provided grievance or arbitration period in response to the change in working conditions ((without the department considering that you have accepted the new work)).~~

~~((+6+)) (iii) This subsection does not apply when the change in working conditions was caused by your own misconduct. The department will treat your refusal of the new working conditions as a separation from work under RCW 50.20.050 or 50.20.066.~~

~~(c) If the department decides you were separated due to a layoff but you refused an offer of new work, the department will issue a written decision even if you do not claim benefits for the week in which the refusal occurred. The employer offering the new work is an interested party to the work refusal decision.~~

~~(4) For purposes of this section, the following definitions apply:~~

~~(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.~~

~~(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. The department will decide if a wage rate is prevailing for your labor market area based on information provided by its labor market and economic analysis branch.~~

~~(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.~~

~~(d) "Substantial change in working conditions" means a material change that is significant in terms of amount, degree, or impact as opposed to a change that is relatively minor or trivial. A change in working conditions is not substantial if the conditions prevailing after the change are those generally prevailing for~~

other workers performing the same or similar work.

(e) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and labor market area customarily work (~~(, or the work would have a significantly unfavorable impact on you)~~).

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07,
effective 12/2/07)

WAC 192-180-010 Job search requirements--Directives--RCW 50.20.010 (1)(c) and 50.20.240. (1) Do I have to look for work? You must be actively seeking work unless you are:

(a) Attached to an employer as defined in WAC 192-180-005(1);
or
(b) Participating in a training program approved by the commissioner.

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1) of this section.

(3) **What are my weekly job search requirements?**

(a) At a minimum, you must:

(i) Make job search contacts with at least three employers each week; or
(ii) Participate in three approved in-person job search activities at the WorkSource office or local employment center, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a referral union you must be registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** A job search contact is a contact with an employer to inquire about or apply for a job. You may use job search methods that are customary for your occupation and labor market area, including in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department decides the contact is designed in whole or in part to avoid meeting the job search requirements. Simply posting your resume on-line (for example, Monster.com or Craigslist) does not constitute a job search contact for purposes of this section; an application or contact with an employer for a specific job must be submitted to count as one of the required weekly job search contacts.

(5) **What is an "in-person job search activity"?** This is an activity provided through the WorkSource office or local employment

center that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided by WorkSource staff and approved by the local WorkSource administrator. For claimants residing in Washington state, an in-person job search activity must be documented in the department's services, knowledge and information exchange system (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3) of this section.

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of looking for work (such as from resumes to in-person contacts);
- (c) Expand the geographic area in which you look for work; or
- (d) Look for work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

AMENDATORY SECTION (Amending WSR 05-19-018, filed 9/9/05, effective 10/10/05)

WAC 192-180-013 What are the job search requirements for individuals who work less than full time? (1) "Partially unemployed" workers are those individuals:

- (a) Who were hired to work full time((7));
- (b) Whose weekly hours of work have been temporarily reduced ((to less than full time)) by their employer((7)) by no more than sixty percent;
- (c) Who earn less than one and one-third times their weekly benefit amount plus five dollars during a week((7)); and
- (d) Who are expected to return to full time work for their employer within four months.

The department considers these workers ~~((are considered))~~ to be employer attached and they are not required to register for or seek work. They must be available for all work offered by their regular employer.

(2) "**Part time**" workers are individuals who normally work less than full time, or who take a job that is less than full time. To

be eligible for benefits, these individuals must be available for and actively seeking full time work and the department may review their job search at any time. If they get a part time job, they must continue to look for full time work or we will deny their benefits under RCW 50.20.010 (1)(c). This definition of "part time" workers means individuals who work part time but do not meet the requirements of RCW 50.20.119.

(3) "**Part time eligible**" workers are individuals who have worked no more than ((17)) seventeen hours in any week of their base year. They are eligible for benefits under RCW 50.20.119. These individuals may look for work of ((17)) seventeen or fewer hours per week and the department may review their job search at any time. Once an individual gets a job for ((17)) seventeen or fewer hours per week, he or she is employer attached and no longer required to look for work.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-180-015 Tracking job search activities--RCW 50.20.240. (1) Do I need to keep track of my job search activities? You must keep a record or log of your job search contacts and the in-person job search activities you receive through the WorkSource office or local employment center unless you are:

- (a) A member of a full referral union;
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

(a) For in-person or telephone job search contacts, record the date contact was made; the employer's name, address and telephone number; ((the type of)) how contact was made (in-person, telephone, etc.); the name or position of the person you contacted; and the type of work you applied for. If application was made on-line, by newspaper or other means in which there is no direct employer contact, include date, web address, or newspaper name or address, the job applied for, such as a job reference number, or attach a copy of the job announcement or a confirmation notice received after your application was submitted;

(b) For in-person job search activities at the WorkSource office or local reemployment center, record the date contact was made; and a description of the services you received or the activities in which you participated.

(3) **Is there a specific form I must use?** The department will

supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as you record all information required by this section.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or thirty days after receiving your final payment on any extension of benefits, whichever is later.

AMENDATORY SECTION (Amending WSR 07-22-055, filed 11/1/07, effective 12/2/07)

WAC 192-180-025 Job search review interviews. (1) **What is a job search review (JSR) interview?** The JSR is an interview between you and a representative of the WorkSource office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts. For interstate claimants, this interview may be conducted by telephone or by the local employment center in a contracted state.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?** ~~((a))~~ The interviewer will review at least one week of your job search documentation at the initial interview. If the job search documentation is unsatisfactory, ~~((or))~~ the department will reschedule you for a second interview in which we will review your documentation for all weeks claimed.

(4) **What happens if I don't attend the initial JSR interview?** If you fail to ~~((appear for))~~ attend the initial JSR interview ~~((without being excused, you will be scheduled for a second interview in which all weeks claimed will be reviewed.~~

~~((b) If you are excused from attending the initial JSR interview,)) and you have an:~~

~~((a) Excused absence, WorkSource staff will reschedule you ~~((will be rescheduled))~~ for a review of one week of your job search documentation.~~

~~((+)) When may I be excused from attending the initial JSR?))~~
You may be excused from attending the initial JSR interview only for the following reasons:

~~((a))~~ (i) Jury duty;

~~((b))~~ (ii) National Guard duty;

~~((c))~~ (iii) Natural disaster or acts of nature; or

~~((d))~~ (iv) Verifiable employment or a job interview.

(b) Unexcused absence, the following will apply:

(i) The department will schedule you for an interview in which we will review your job search activities for all weeks claimed; and

(ii) The department will deny your benefits for the week of the initial interview unless you can show good cause for not attending. (See WAC 192-180-030.)

(5) What does "all weeks" mean? For purposes of this section, "all weeks" means the latest of the following:

(a) Weeks claimed since you filed your application for benefits; or

(b) Weeks claimed since your last JSR interview, if applicable.

(6) Do I need to bring anything else to the JSR interview? You must be prepared to present proof of your identity during the JSR interview. ~~((This includes))~~ Acceptable documents are:

(a) State or government issued ((photo)) driver's license or identification card with photo; ((or))

(b) ((Two of the following government-issued documents:)) U.S. passport (expired or unexpired);

(c) Permanent resident card or alien registration receipt card (Form I-551);

(d) Unexpired employment authorization document, with photo;

(e) School identification card with photo;

~~((+i+))~~ (f) Voter's registration card;

~~((+ii+))~~ (g) U.S. military identification card or draft record;

~~((+iii+))~~ (h) Military dependent's identification card;

~~((+iv+))~~ (i) U.S. Coast Guard merchant mariner card; or

~~((+v+))~~ (j) Native American tribal document ((7

~~(vi) U.S. Social Security card;~~

~~(vii) Certification of birth abroad issued by the U.S. Department of State;~~

~~(viii) Original or certified copy of a birth certificate;~~

~~(ix) U.S. citizen ID card;~~

~~(x) ID card for use of resident citizen in the United States;~~
or

~~(xi) Unexpired employment authorization document issued by the United States citizenship and immigration services (USCIS)).~~

AMENDATORY SECTION (Amending WSR 07-23-129, filed 11/21/07, effective 1/1/08)

WAC 192-200-005 Disqualification of students--RCW 50.20.095.

(1) **General rule.** If you are registered in a course of study that provides scholastic instruction of twelve or more credit hours per week, you are disqualified from receiving benefits or credit for your waiting week.

(2) **Period of disqualification.** The disqualification starts with the week the instruction begins or the week you left employment to return to school, whichever is earlier. The disqualification ends at midnight on Saturday of the week prior to the first full week in which you are no longer registered for twelve or more hours of instruction. You must certify to the department that you are not currently registered for twelve or more credit hours and will not be registered for twelve or more credit hours for at least sixty days. If you begin classes within sixty days, all benefits paid since the date of your certification will be considered an overpayment. This overpayment is subject to recovery under RCW 50.20.190. If you are registered for classes that begin more than sixty days in the future, you will not be disqualified under this subsection.

(3) **Disqualification not applicable.** The disqualification does not apply if you:

(a) Are in approved training under RCW 50.20.043;

(b) Are in an approved self-employment assistance program under RCW 50.20.250; or

(c) Show by a preponderance of the evidence that your student status does not significantly interfere with your actual availability for work when you apply.

(4) **Definitions.** As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education as defined in RCW 50.44.037;

(b) "Scholastic instruction" includes all teaching or opportunity for learning subjects other than those of a strictly vocational nature. Subjects of a vocational nature are those embraced in the definition of "training" contained in WAC 192-200-010.

(c) "Twelve or more hours per week" means 12 or more credit hours per week or its equivalent((7

~~(d) "Preponderance of evidence" means evidence sufficient to persuade a reasonable person considering all the evidence that the proposal is more probably true than not true)).~~

(5) **Students.** Students who claim benefits are subject to all of the provisions of Title 50 RCW including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause;

- (b) RCW 50.20.010 (1)(c) requiring claimants to be able and available for and actively seeking work; and
(c) RCW 50.20.240 requiring claimants to provide evidence of their job search activities as requested by the department.

AMENDATORY SECTION (Amending WSR 07-23-129, filed 11/21/07, effective 1/1/08)

WAC 192-200-030 May I receive unemployment benefits while I am in training? (1) To be eligible for unemployment benefits while in training, you must meet the following criteria:

(a) The training must be full-time as defined by the training facility but subject to the discretion of the commissioner, including skills training classes designated as full-time by the local WorkSource administrator; and

(b) You must be making satisfactory progress in training. Except as provided in ~~((subsection))~~ (c) of this subsection, "satisfactory progress" is defined in WAC 192-270-065; or

(c) If you are enrolled in an approved self-employment assistance program under RCW 50.20.250, "satisfactory progress" means you are attending classes and participating in other activities related to setting up a business within the ~~((timeframes))~~ time frames outlined in your approved training plan.

(d) The certification that you are making satisfactory progress in full-time training must be signed by the registrar or equivalent person designated by the training facility.

(2) You must notify the department if you discontinue or suspend training, change your course of study, or reduce enrollment to less than full-time.

(3) If your enrollment drops below full-time or you are not making satisfactory progress, you may be required to show that you are meeting the availability for work and job search requirements of RCW 50.20.010 (1)(c) and 50.20.240, and the provisions of RCW 50.20.080 regarding failure to apply for, or refusal to accept suitable work.

AMENDATORY SECTION (Amending WSR 07-23-128, filed 11/21/07, effective 1/1/08)

WAC 192-230-020 How are cash payments and offsets applied to my overpayment? (1) If the department has assessed more than one overpayment against you, we will first apply payments against any overpayment involving fraud. If there are multiple overpayments involving fraud, we will apply payments in order beginning with the oldest benefit year. If none of the overpayments involve fraud, we will apply payments in order beginning with the oldest benefit year.

(2) Within the priority established in subsection (1) of this section, the department will apply cash payments to the outstanding balance in the following order:

- (a) Court costs.
- (b) Interest.
- (c) Penalties based on fraud.
- (d) Overpaid benefits.
- (e) Surcharge assessed under RCW ((~~41.14.027~~)) 40.14.027.

(3) The department will only apply offsets to the overpaid benefits. Court costs, fraud penalties, interest, and surcharges cannot be offset; they must be repaid.

AMENDATORY SECTION (Amending WSR 09-13-057, filed 6/12/09,
effective 7/13/09)

WAC 192-250-045 Who is not eligible for participation in the shared work program? (1) The following employees are not eligible for participation in the shared work program:

(a) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid on a piece rate basis if an hourly rate of pay can be established.

(b) Officers of the corporation that is applying for participation.

(2) The following businesses are not eligible for participation in the shared work program:

(a) Businesses with a tax rate of (~~more than~~) 5.4 percent or more, not including the social cost factor rate and taxes under RCW 50.24.010 and 50.24.014.

(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-142	Claims, appeals, petitions--Filing not to be refused.
WAC 192-12-151	Benefit payments--Not a determination of allowance.
WAC 192-12-153	Payment of benefits--Initial allowance--Employer appeal.
WAC 192-12-154	Payment of benefits by appeals tribunal--Claimant appeal.
WAC 192-12-155	Payment of benefits by commissioner--Petition to court.
WAC 192-12-160	Withdrawals from trust fund.
WAC 192-12-170	Unemployment compensation administration fund.
WAC 192-12-173	Federal programs--Maintenance of regulations and guidelines.
WAC 192-12-365	Interpretive regulation--Definition of suitable work as it applies to agricultural labor.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 192-16-004	Interpretive regulation--Benefit year--Further defining initial separation from employment--RCW 50.04.030.
WAC 192-16-005	Interpretative regulations--Applications for initial determinations--Backdating--RCW 50.04.030.
WAC 192-16-009	Disqualification for leaving work voluntarily--Meaning of good cause for claims with an effective date prior to January 4, 2004--RCW 50.20.050(1).
WAC 192-16-015	Leaving work for marital or domestic reasons--RCW 50.20.050(1)(d).
WAC 192-16-016	Satisfying disqualification under RCW 50.20.050(1)(d) when separation is for reasons of marital status and marriage occurs after date of separation.
WAC 192-16-025	Lump sum retirement payment.
WAC 192-16-030	Interpretive regulation--Computation of pension deductions under RCW 50.04.323.
WAC 192-16-050	Diversion of unemployment benefits to satisfy child support obligations.
WAC 192-16-055	Interpretive regulations--Special coverage provisions--Bona fide notification of intent for substitute teacher--RCW 50.44.050(1).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-17-010

Exemption from provisions of WAC
197-10-800.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 192-23-001	Failure to respond to request for information results in a presumption of disqualifying information.
WAC 192-23-011	Failure to provide details of employment.
WAC 192-23-012	Failure to provide details on holiday and/or vacation pay.
WAC 192-23-051	Failure to provide details on separation from employment.
WAC 192-23-052	Failure to respond to a request for information regarding voluntary quit.
WAC 192-23-081	Failure to provide details on a refusal of an offer of work.
WAC 192-23-082	Failure to respond to a request for information regarding failure to apply for work.
WAC 192-23-091	Failure to respond to a request for information regarding labor dispute.
WAC 192-23-113	Failure to respond to a request to provide information regarding athletic employment.
WAC 192-23-301	Failure to respond to a request for information regarding reasonable assurance of return to work.
WAC 192-23-320	Failure to respond to a request for documentation of a systematic and sustained work search.
WAC 192-23-350	Failure to respond to a request for pension information.
WAC 192-23-900	Claimant liable for repayment of overpayments caused by conditional payment.